



**EXECUTIVE CHAMBERS**

HONOLULU

LINDA LINGLE  
GOVERNOR

July 11, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 1792 SD3 HD3 CD2

On July 10, 2007, Senate Bill No. 1792 entitled "A Bill for an Act Relating to the Hawaii Health Systems Corporation" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to create five regional boards within the Hawaii Health Systems Corporation (HHSC), to give these regional boards authority over the operation and governance of HHSC facilities that are located within their regions, to retain the central corporation and increase the membership of the HHSC Board, to exempt the HHSC Board and the regional boards from the Sunshine Laws, and to exempt the regional boards from the Public Procurement Code.

The bill contemplates that the regional boards will exercise substantial control and responsibility for the management of the HHSC facilities and other assets located in their regions, while HHSC and the HHSC Board will act upon corporation-wide matters. Regional boards will be able to retain revenues that are generated by facilities located within their regions, and the regional boards will be responsible for developing budgets and submitting them to the HHSC board for submission to the Legislature. Both HHSC and the regional boards will have authority to contract for goods, services, and construction.

I support the intent of this bill to give local regions more control over the operation of the HHSC facilities that are located in their area. However, I did not sign the bill because this bill poses a number of concerns that could adversely affect the operation of the HHSC hospitals, which is our State's "safety net" of medical facilities.

Among my concerns is this bill exempts the regional boards and the HHSC Board from Part I of this State's Sunshine Law in chapter 92, Hawaii Revised Statutes. This bill also exempts the regional boards from Hawaii's Public Procurement Code. These two exemptions remove transparency, openness, and accountability in the administration of this State's public hospitals, including the utilization of public funds by the regional boards.

Exempting the HHSC Board and the regional boards from "open meetings" requirements of the Sunshine Law means that they will no longer be required to, among other things, post notice of their meetings, allow the public to attend and testify at meetings, or make their minutes publicly available. The HHSC's Board and regional boards will be able to set policy, enter into contracts, begin or conduct lawsuits, and oversee the administration of public health facilities without wide community scrutiny or participation. Although this bill requires each regional board to hold two informational community meetings per year to take comments on the region's performance, this is a far lesser standard of public participation and scrutiny than is provided for under the Sunshine Law.

A governmental agency with the authority to expend funds also should be in compliance with the Procurement Code, which promotes the policy of fair and equitable treatment of all persons and companies who deal with the government, fosters effective broad-based competition, and increases public confidence in public procurement. Open bidding procedures assure that the State obtains value and that potential vendors/contractors are treated fairly. The Procurement Code establishes a time-tested, fair, and reliable set of rules and processes for award of contracts. To the extent that agencies may need specific purchases to be exempted from the Code requirements, the Code provides an exemption process.

I also have concerns about the timetable for implementation of this bill. Within 15 days, I must receive a total of 120 names of candidates for the regional boards from the Senate President, House Speaker, Management Advisory Committees, and HHSC staff. Thereafter, I have 30 days to select the 60 most qualified persons--12 persons for each region.

In addition to this timetable for selecting regional board members, SB 1792 specifically provides for a new selection of HHSC corporate board members--some of whose terms will prematurely expire in December 2007 and the rest of whose terms will prematurely expire in September 2008. Even supporters of this bill have expressed concern that with a 100% turnover in the HHSC Board at the same time that the regional boards are being constituted, HHSC, as a whole, will lose the "institutional knowledge" of HHSC Board members. At the time of great change in corporate governance, vis-à-vis the constitution of the new regional boards and the sharing of authority and obligations with HHSC, it would appear unwise to have further changes in the governance of HHSC.

I also remain concerned that this bill requires the Governor to select candidates solely from enumerated lists. The Governor's ability to select the most qualified person to fill a vacancy should not be so narrowly restricted.

Additionally, I am concerned that this bill comes at a time when HHSC is facing serious fiscal difficulties and has just assumed responsibility for a new facility--Kahuku Hospital. It is my hope that funding for each respective region will be set based upon true need and not solely as a function of the political power of a respective region's elected officials.

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Although I cannot in good conscience endorse this bill with my signature, I wish to reaffirm my commitment to improving the access of local communities in decision-making regarding their health care providers. I have consistently held the position for more than twenty-five years that the government which is closest to the people is the government that can best meet the needs of its citizens. It is refreshing to note that the Legislature has finally recognized this in passing this measure.

For the foregoing reasons, I allowed Senate Bill 1792 to become law as Act 290, effective July 10, 2007, without my signature.

Sincerely,

A handwritten signature in dark ink, appearing to read "L. Lingle", with a stylized, cursive script.

LINDA LINGLE